

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 3504 of 1985

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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SURESH MANUBHAI DAVE

Versus

DIST. & SESSIONS JUDGE OF THE NAROL COURT

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Appearance:

MR KH BAXI for Petitioner

MS SIDDHI TALATI for Respondent No. 1, 2, 3

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CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 24/07/97

ORAL JUDGEMENT

1. The petitioner, an employee of District Court, Ahmedabad, filed this special civil application before this Court and prayer has been made for issuance of a writ of mandamus or a writ in the nature of mandamus or any other appropriate writ, direction or order against the respondents to grant the petitioner selection grade from the date of passing of the examination of higher cadre. Further prayer has been made for quashing of the

annexures 'A' and 'B' and the resolution of the Finance Department, annexure 'F'.

2. Under annexure 'A' the inter-se district transfers of Junior Clerks including the petitioner were ordered. The petitioner's inter-district transfer has been ordered subject to condition that he will rank below the junior most temporary clerk in the gradation list of the respective district. The petitioner has been transferred from Baroda district to Narol district.

3. Challenge to this order after more than about four years suffers from delay and laches. Otherwise also, as stated by the respondents in the reply, the petitioner has been transferred on his own request. So when it is a transfer on his own request then certainly, the petitioner cannot claim any seniority from the date of his appointment in the transferee district. The cadre of Junior Clerk is a district cadre and seniority of the junior clerks is maintained district-wise. So the transfer of junior clerk from one district to another district is not permissible. But for the convenience of employers, a policy has been framed by the Government as well as by this Court to permit inter-district transfers in the case of personal request by the employee concerned provided such employee agrees to forego his seniority in the district of his initial appointment. Reference to the policy framed by this Court has been made and copy of the same has also been filed. Annexure 'F' is the policy of identical nature which has been framed by the Government. The cadre of junior clerk is a district cadre and the transfer from one district to another district is not permissible. So in case a policy decision has been taken to permit such transfer on the personal difficulty of employee, then I fail to see any justification in challenge of the petitioner to the policy decision that the transfer could not have been made at the loss of seniority. The appointing authority is also different and when the petitioner has sought to get himself transferred to Ahmedabad district then certainly it could have been at the loss of seniority. So the petitioner cannot claim any benefit of his past services which he rendered in District Baroda for the purpose of seniority and other benefits. It is not the case of the petitioner that if the seniority of the petitioner is counted in Ahmedabad district from the date of his joining there any of his junior has been given the selection scale.

4. The special civil application is wholly misconceived and the same is dismissed. Rule discharged.

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